IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18243 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTIBHAI DEVSHIBHAI POPAT - Petitioner(s)
Versus
DEPUTY COLLECTOR & 2 - Respondent(s)

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Appearance :

MR RAJESH K SHAH for Petitioner(s) : 1,MR ASHVIN J POPAT for Petitioner(s) : 1,
MS.MD MEHTA AGP for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 06/08/2007

ORAL JUDGMENT

1. Leave to amend.

2. Affidavit-in-reply filed today on behalf of respondent No.1 is taken on record.

3. RULE. Learned A.G.P. Ms.M.D. Mehta waives service for the respondents.

4. Invoking Article 226 of the Constitution, the petitioner has challenged order and decision dated 10.04.2006 of respondent No.2 whereby, the application of the petitioner to review order dated 22.03.2003 of respondent No.1, made under Section 32-A of the Bombay Stamp Act, 1958 (for short “the Act”), was rejected only on the ground of delay, without entering into merits. According to the affidavit-in-reply filed today, order dated 22.03.2003 of Deputy Collector was passed after affording to the petitioner several opportunities of being heard and a copy thereof was sent to the petitioner. Thereafter, the petitioner had paid, on 23.06.2003, the sum equivalent to 12.5% of the deficit stamp duty and, even after acceptance of the same, the application for reference, which is called and named as appeal, has been rejected by Chief Controlling Revenue Authority by the impugned order after more than three years. Therefore, impugned order dated 10.04.2006 clearly appears to be without application of mind and hence, it was submitted by learned A.G.P. Ms.M.D. Mehta that the Authority should have no objection in examining the application or the reference made by Deputy Collector on merits and deciding the

same after affording to the petitioner an opportunity of being heard.

5. Therefore, the petition is partly allowed with the direction that the Deputy Collector concerned shall draw up the statement and refer the case of petitioner to Chief Controlling Revenue Authority for decision on merits and in accordance with law, after affording to the petitioner an opportunity of being heard. In view of long passage of time, the proceedings as aforesaid shall be conducted and concluded as expeditiously as practicable. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.WAGHELA, J.)

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